2024/2371

10.10.2024

RESOLUTION (EU) 2024/2371 OF THE EUROPEAN PARLIAMENT

of 11 April 2024

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy) for the financial year 2022

THE EUROPEAN PARLIAMENT,

— having regard to its decision on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2022,

— having regard to Rule 100 of and Annex V to its Rules of Procedure,

— having regard to the opinion of the Committee on Industry, Research and Energy,

— having regard to the report of the Committee on Budgetary Control (A9-0090/2024),

A. whereas the European Joint Undertaking for the International Thermonuclear Experimental Reactor (ITER) and the Development for Fusion for Energy (the 'Joint Undertaking') was established in April 2007 for a period of 35 years by Council Decision 2007/198/Euratom ([1]);

B. whereas the members of the Joint Undertaking are the European Atomic Energy Community (Euratom), represented by the Commission, the Member States of Euratom ([2]), and third countries which have concluded a cooperation agreement with Euratom in the field of controlled nuclear fusion;

C. whereas the objectives of the Joint Undertaking are to provide the Union's contribution to the ITER international fusion energy project, to implement the broader approach agreement between Euratom and Japan, and to prepare for the construction of a demonstration fusion reactor and related facilities ([3]);

D. whereas the ITER project involves seven global partners, namely the Union, represented by Euratom, the United States, Russia, Japan, China, South Korea and India, with the Union taking the lead with a share of 45,4 % of the construction costs and other partners involved 9,1 % each; which will change in the operational fusion testing phase, with the Union providing 34 % of the operating costs ([4]);

E. whereas the Commission's current estimate regarding the total Euratom budget needed for Joint Undertaking to finance the European part of the implementation of the ITER project and the associated activities up to 2035, amounts to EUR 15 billion (in current values); whereas the ITER host state (France) and the Euratom Member States are to contribute an additional EUR 3,2 billion (in current values) ([5]);

F. Whereas the UK and Switzerland are no longer associated with the Joint Undertaking's ITER activities or with the members of Joint Undertaking ([6]);

([1]) Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58).
([2]) The members of Euratom are the EU Member States and the associated states Switzerland and the UK (until 2020).
([3]) The main fusion facilities are at Cadarache in France and Joint Undertaking is located in Barcelona.
([4]) The ITER documents 'Value estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions' and 'Cost Sharing for all Phases of the ITER Project'.
([5]) Estimates are based on the Commission Communication COM(2017)0319 and the related staff working paper SWD(2017)0232, table 4.
([6]) The UK withdrew from the Union and Euratom on 31 January 2020.Trade and Cooperation Agreement between the Union (Euratom) and the UK was agreed on 30 December 2020. This agreement establishes that the UK will participate in and contribute to the Union programmes listed in Protocol I, including the Euratom research and training programme and the Joint Undertaking's ITER activities. However, as long as the parties do not agree on the Protocol, the UK is neither associated with the Joint Undertaking's ITER activities nor a member of the Joint Undertaking. Regarding Switzerland, the agreement was not automatically prolonged and therefore ended in 2020.

G. whereas, to increase transparency, the Joint Undertaking should disclose in its annual accounts, relevant information regarding members' contributions at programme level; whereas, for each programme under which they operate, the Joint Undertaking should present per member category up to the year-end, all relevant information including the legal contribution targets set for the respective programme, the volume of contributions received, and the volume of legal commitments; whereas the Joint Undertaking should continue to improve transparency;

General

1. Notes that the report of the Court of Auditors (the 'Court') on the Joint Undertaking's annual accounts (the 'Court's report') finds the annual accounts for the financial year of 2022 to present fairly, in all material respects, the financial position of the Joint Undertaking at 31 December 2022 and the results of its operations, its cash flows, and the changes in net assets for the financial year 2022, in accordance with its Financial Regulation and with the accounting rules adopted by the Commission's accounting officer; notes, in addition, the fact that the underlying transactions to the accounts for the financial year 2022 are, in all material respects, legal and regular;

2. Underlines that the Court draws attention to the fact that the Joint Undertaking disclosed in the 2022 annual accounts its estimate of the total cost for completing its delivery obligations for the ITER project (estimate at completion), assessed at EUR 19,1 billion (in 2022 values), consisting of the total payments made up to the end of 2022, amounting to EUR 9,2 billion and the estimate of the future payments, assessed at EUR 9,9 billion (in 2022 values);

3. Notes, however, that the 2022 estimate at completion is still based on 2016 milestone and cost assumptions and that these estimates will be subject to significant revision, once the new ITER project baseline and requirements are finalised, approved by the ITER Council, and formally communicated to the Joint Undertaking;

4. Acknowledges that, during 2022, the Joint Undertaking experienced strong inflationary effects, initially due to COVID-19 induced supply chain issues and then (after February 2022) due to Russia's war of aggression against Ukraine; is worried that the estimated impact of these on the Joint Undertaking's total estimate at completion amounts to EUR 144 million (2008 values) per the latest assessment; notes in addition that this estimate at completion increase is expected to materialise as additional expenditure in the years 2023–2026; notes, moreover, that this inflationary effect is clear in raw material prices, both in existing contracts and tenders received in 2022, and is likely to continue in the future depending on the developing international situation;

5. Notes with concern that Russia is a member of the ITER-IO, with the obligations to deliver several components for the ITER project to the ITER assembly site in France (Cadarache) and to provide annual contributions to the ITER-IO; stresses that this situation presents a high risk of delays and higher costs for the ITER project; insists on the need to develop solutions in order to mitigate these risks appropriately; considers that any decision taken should safeguard Union's strategic interests and policy priorities;

6. Is aware that, in November 2022, the 31st ITER Council ([7]) agreed on a baseline update and in its 32nd meeting of 22 June 2023–22 June 2023 ([8]) it commissioned the ITER director-general to present a proposal for the updated ITER baseline for review and approval in 2024;

7. Notes with concern that the risk to budget management was categorised as medium for the Joint Undertaking because of new risks of further delays and cost increases to the ITER project, related to the planned new baseline, delivery problems due to the sanctions on Russia, and delays of the French Nuclear Safety Authority ([9]) in approving design changes occurring during the assembly process;

([7]) https://www.iter.org/doc/www/content/com/Lists/list_items/Attachments/1061/2022_11_IC-31.pdf.
([8]) https://www.iter.org/doc/www/content/com/Lists/list_items/Attachments/1115/2023_06_IC-32.pdf.
([9]) The French nuclear safety authority (ASN) has the ultimate authority and interacts only with ITER International Fusion Energy Organisation (ITER-IO), and any future changes required could have a high cost impact. In January 2022, the ASN put a stop to ITER assembly entirely until ITER can prove that it can keep personnel safe.

Budgetary and financial management

8. Welcomes that the Union budget for the 2014–2020 period was fully implemented in commitments at the end of 2020; notes, moreover, that the payment plan for the outstanding commitments is aligned with the delivery plan: EUR 232,2 million for 2022 and EUR 150 million for 2023 and the other remaining payments will materialise in the following years ([10]);

9. Notes that for the Multiannual Financial Framework period 2021–2027, the European Council has agreed a budget for the Euratom contribution to ITER amounting to a total value of EUR 5 614 million (in current values) of which EUR 5 560 million (in current values) of direct contribution to the project; notes, in addition, that the ITER Host State and Membership contributions will be added to this figure, subject to the final decision by the relevant budgetary authorities;

10. Notes that the Joint Undertaking's governing board (GB) originally adopted the Joint Undertaking's 2022 budget for EUR 854,49 million in commitment appropriations and EUR 845,45 million in payment appropriations and that it was modified in two amendments in the GB meetings of July and December 2022;

11. Notes that the final available appropriations, including the carry-over from the previous year amount to EUR 981,18 million in commitment appropriations (compared to EUR 1 069,88 million in 2021) and EUR 844,02 million in payment appropriations (compared to EUR 764,8 million in 2021);

12. Notes that the execution rate of the Joint Undertaking's final available budget stood at 72 % in commitments and 91 % in payments (compared to 99,7 % and 97,4 % respectively in 2021); notes that, the low implementation rates resulted from the slowdown of operational activities at the level of both the ITER-IO and the Joint Undertaking, mainly due to the aftermath of the COVID-19 pandemic, Russia's war of aggression against Ukraine, and recent technical design issues concerning the current assembly phase of the ITER project;

13. Notes, moreover, that the Joint Undertaking reduced the operational payments budget by EUR 92 million by means of an amended budget, and in addition, transferred EUR 9,5 million from its operational payments budget to the administrative budget (salaries), to finance the Joint Undertaking's pension fund obligations to the Commission;

14. Underlines that the Court considered that there are weaknesses in the implementation of the Joint Undertaking's administrative budget, due to the fact that this budget is set up as non-dissociated appropriations; notes that, as a result, administrative commitments based on administrative contracts and obligations for which payments that have not been made at the year end, may be carried over for payment to the following year;

15. Notes with concern that, at the end of 2022, for Title 2 –Infrastructure and Operating Expenditure, the implementation rate was 63 % when considering the new 2022 administrative payment budget only, and 69 % when also considering the unused administrative payment budget of previous years reactivated in 2022 for implementation, and the cancellation rate of commitment carried over from the previous year was high with an average of 20 %;

Staff and recruitment

16. Notes that, from 31 December 2022, the occupied staff posts at the Joint Undertaking included 46 officials, 224 temporary agents and 164 contract agents; notes, in addition, that the Joint Undertaking relied on the support of 12,5 interim staff (in FTE) and three seconded national experts;

17. Notes, in addition, that 11 newcomers (six temporary agents and four contract agents and one seconded national expert) took up duties in 2022 and that four members of staff (all contract agents) became temporary agents on the basis of selection procedures;

18. Notes that the Joint Undertaking has slightly improved the gender imbalance; notes from the consolidated annual activity report, as regards gender balance, that around 38 % were female and 62 % male in the Joint Undertaking's workforce; suggests that the Joint Undertaking continues to improve gender imbalance and strives for a balanced geographical balance in this respect;

([10]) Commission, ITER performance, 2023.

19. Underlines that the Court considered that the Joint Undertaking's senior management situation has remained unstable and in a significant state of transition at the end of 2022 with the departure of the director in June 2022, and the appointment of the head of the broader approach department as ITER-IO director-general in September 2022, resulting in personnel changes for four of the Joint Undertaking's seven senior management positions;

20. Echoes the Court's concern that this situation presents a risk to the Joint Undertaking's sound management and continuity, at a time when experienced senior management staff will be required to implement the new ITER baselines, which have a significant impact on Joint Undertaking's activities;

21. Notes with concern the letter ([11]) addressed by trade unions in the beginning of 2022 to the Commission describing management and human resources issues and alerting the Commission of the risks of the situation for the proper functioning of the Joint Undertaking, the wellbeing of its staff and the reputation of the Union in the ITER project;

Prevention of fraud and conflict of interest

22. Notes, from the Consolidated Annual Activity Report 2022, that the implementation of the actions in the anti-fraud action plan has been systematically followed up using a dedicated database (RAPID) which documents further progress as regards the implementation of anti-fraud actions in 2022;

23. Notes, with satisfaction, that throughout the year, the anti-fraud and ethics officer provided information and support on fraud prevention matters to staff involved in procurement, contracts management, finance, and human resources management and that anti-fraud awareness-raising events were organised for the Joint Undertaking's staff and management, including training sessions for newcomers; notes that the implementation status was reported at audit committee meetings, and, in addition, the Joint Undertaking's internal network of fraud correspondents was kept informed individually and in the context of the regular Assurance Network meetings;

24. Notes with appreciation that rules, procedures, processes, and best practices related to ethics and conflict of interest prevention and management were communicated to staff, notably through the Joint Undertaking's manual on its intranet;

25. Welcomes the fact that, from 2022 on, all of the Joint Undertaking's staff have been obliged to issue a General Declaration of Interest every year; the issuing and assessment of the declarations is now managed through a newly created digitalised Joint Undertaking's conflict of interest register, improving follow-up and traceability, and thereby the prevention and management of its conflicts of interest;

Management and control systems

26. Notes with concern that the Court considers that the Joint Undertaking's contract management has weaknesses that have seriously affected the achievement of contract's objectives and – if not addressed – may also affect other operational activities of Joint Undertaking, considering the significant amendments to ongoing complex contracts that may be required, resulting from the updated baseline of the ITER project;

27. Notes, in particular, that the contract signed in 2013 amounting to EUR 500 million for the design, equipment, and installation of the ITER nuclear and non-nuclear buildings; in December 2020, Joint Undertaking and ITER-IO, reacting to concerns and dissatisfaction with the contractor's progress and efficiency related to the work still outstanding on the non-nuclear buildings, assessed with the help of external legal experts, the potential consequences of alternative procurement strategies such as the retendering of equipment services or transfer of the remaining work to other contractors; notes that in February 2021, the contractor submitted a cost claim totalling EUR 150 million for nuclear design and equipment services, followed in September 2021 by another cost claim of EUR 30 million for the remaining work on the non-nuclear buildings; based on legal experts' risk analysis and feedback, the Joint Undertaking's director settled with the contractor only the first cost claim for an amount of EUR 75 million, and the contractor opened a dispute for the unsettled second cost claim;

([11]) https://u4unity.eu/link/Topic_91_F4E.pdf.

28. Points out that, according to the Court, the analysis of the documentation on the contract's implementation revealed weaknesses in the Joint Undertaking's management of this contract, in particular, the Court underlined the Joint Undertaking's inability to notify material non-compliance in the contractor's programming, leading to different interpretations and disagreement between the parties about the scope of the work, timelines and project requirements; moreover, the legal experts concluded that, because of the way the relevant clauses were worded, the Joint Undertaking could not terminate the contract with a view to executing the de-scoped work itself or arranging for it to be executed by other contractors; regrets that due to the absence of project records, the Joint Undertaking could not clearly establish the contractor's liabilities;

29. Observes that, the consolidated annual activity report 2022, states that the Joint Undertaking continues to implement a recognised, mature and well-functioning internal control system; notes, however, that Joint Undertaking recognises that the changes in the top management (director and senior managers) that are taking place since mid-2022 have a direct impact on the implementation of some of the actions as well as on the Joint Undertaking's organisational culture, and that the visibility of full implementation of initiatives may take some time;

30. Acknowledges that, in applying the principle of prudence, two deficiencies in relation to the external service providers (human resources, competence and continuity) and workload and wellbeing of staff have been classified as major by the Joint Undertaking;

31. Notes, in addition, that the Joint Undertaking's senior management is continuously monitoring the actions launched in those areas identified as having major deficiencies and consider that Joint Undertaking has significantly mitigated the related risks and has formulated concrete action plans to address outstanding concerns, hence justifying the removal of the 2021 reservation in 2022;

Follow-up of previous years' observations

32. Notes that 'observations' in the Joint Undertakings specific annual reports are in fact 'not timed recommendations' by the Court; notes that the Court follows up on those observations annually by assessing their status as 'open' or 'closed';

33. Notes that from the five observations issued by the Court in 2019 and 2021 only two are closed;

34. Notes that the open observation for 2019 is on the excessive use of contracted or insourced resources (around 62 % in 2019), which presents significant risks for the Joint Undertaking, concerning the retention of key competences, unclear accountability, possible judicial disputes, and lower staff efficiency due to decentralised management;

35. Notes that, in 2022, the Joint Undertaking created a working group to assess the high use of external resources with the objective to better plan and justify their need;

36. Notes that, for 2021, the open observations refer to (i) the lack of evidence of efficiency and of positive impact on the system of the regular annual assessments by external experts and intensive internal audits covering most of the Joint Undertaking's critical areas of its activities; which resulted in an increase of the administrative burden and (ii) the deterioration of the working environment at the Joint Undertaking ([12]) and the disproportionate use of external staff resources, increasing challenges and risks for the working environment;

37. Notes that, in 2022, following two recommendations from the 10th annual assessment report ([13]) on human resources management, the GB approved an action plan for their implementation.

([12]) The main reasons being the shortcomings at senior management level – e.g., non-transparent and dysfunctional decision-taking and lack of social dialogue.

([13]) 56th GB meeting on 7–8 July 2022 Barcelona.